

**CITY OF SAN DIEGO
ETHICS COMMISSION**

Office of the Executive Director

MEMORANDUM

DATE: February 4, 2011

TO: The Committee on Rules, Open Government and Intergovernmental Relations

FROM: Stacey Fulhorst, Executive Director

SUBJECT: Ethics Commission Hearings and Administrative Law Judges
Docketed for Rules Committee Consideration on February 16, 2011

The San Diego Municipal Code currently provides the following options for the Ethics Commission with respect to the appointment of one or more hearing officers to preside over the Commission's administrative hearings: (1) the entire Ethics Commission sitting as a hearing panel; (2) an ad hoc subcommittee composed of three Commissioners; or (3) an individual selected from a list of volunteers.¹ SDMC § 26.0435(b).

The Ethics Commission held several hearings during the past year that required volunteer Commissioners to spend a tremendous amount of time handling pre-hearing issues and attending hearings. As a result, the Commission asked staff to look into the possibility of retaining a local administrative law judge to preside over the hearings on an as-needed basis. Staff researched the issue and advised the Commission that other jurisdictions routinely use administrative law judges for such hearings. In addition, staff conferred with the State Office of Administrative Hearings and confirmed the availability of local administrative law judges to hear Commission matters. Accordingly, the Commission recommends an amendment to the Municipal Code to add the option of appointing an administrative law judge to preside over a Commission hearing.

Although there is an hourly fee associated with the use of administrative law judges, the Commission does not plan to request an increase to its annual budget for FY12. Instead, the Commission staff is currently working with the Financial Management Department on a reallocation of existing budgeted funds for FY12 to enable the Commission to pay for administrative law judges, as needed. Obviously, if there are not sufficient funds in the Commission's budget to pay for an administrative law judge to preside over a specific matter, the Commission will select one of the other options with respect to the appointment of hearing officers.

¹ When a subcommittee of Commissioners or a volunteer hearing officer presides over a hearing, a written recommendation is submitted to the full Commission, which then deliberates in open session with respect to the final determination. The same procedure would be followed if an administrative law judge presided over a hearing.

Committee on Rules, Open Government and Intergovernmental Relations
February 4, 2011
Page 2

For your convenience, we have drafted the attached strike-out version reflecting the proposed amendment to the Municipal Code, which is scheduled to be considered by the Rules Committee on February 16, 2011. If you have any questions, please contact me at your convenience.

Stacey Fulhorst
Executive Director

Attachment

cc: Catherine Bradley, Chief Deputy City Attorney